

REMARKS

Claims 1-7 and 10 were pending in the instant application. Claims 1-3 have been deemed allowed by the Examiner. *No new matter has been added.*

SECOND REQUEST. Our records indicate that an Information Disclosure Statement was filed on January 9, 2001. However, Applicants have not received a confirmation copy of the 1449 form, indicating acknowledgement of the cited references by the Examiner. In this regard, Applicants respectfully request that the Examiner acknowledge the references cited by the Applicants. For your convenience, a copy of the 1449, as filed, as well as the acknowledgement postcard is enclosed herewith.

Judicially Created Doctrine of Obviousness-Type Double Patenting

Rejection of Claims 1-7 and 10 under the Judicially Created Doctrine of Obviousness-Type Double Patenting over U.S. Patent Nos. 6,103,698, 6,015,790, 5,831,002, and 5,965,700

Claims 1-7 and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,103,698, 1-11 of U.S. Patent No. 6,015,790, 1-10 of U.S. Patent No. 5,831,002, and 1-4 of U.S. Patent No. 5,965,700. Applicants have addressed the obviousness-type double patenting rejections with respect to U.S. Patent Nos. 6,103,698, 5,831,002, and 5,965,700 by the submission of terminal disclaimers, and therefore respectfully request withdrawal of the obviousness-type double patenting rejections with respect to these patents.

As may be evident by the Terminal Disclaimers, ownership of the referenced patents and the instant application has recently been transferred from BASF Aktiengesellschaft to Abbott GmbH & Co. KG by virtue of an Assignment recorded in the United States Patent and Trademark Office on June 10, 2003, at Reel 013718, Frame 0861. However, U.S. Patent No. 6,015,790, is presently in the process of undergoing reassignment from BASF Aktiengesellschaft to Abbott GmbH & Co. KG. We have, therefore, today filed a Notice of Appeal and once we receive the executed assignment and upon recordation, we will file the remaining terminal disclaimer.

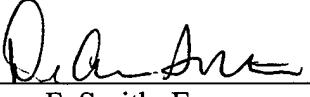
CONCLUSION

In view of the foregoing, favorable reconsideration and withdrawal of the rejections, and allowance of this application with all pending claims are respectfully requested. If a telephone conversation with Applicants' attorney would expedite prosecution of the above-identified application, the Examiner is invited to call the undersigned at (617) 227-7400.

Respectfully submitted,

LAHIVE & COCKFIELD, LLP

Dated: December 1, 2003

By 
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Attorney/Agent For Applicant

COPY



Initials: CSE/jwb Docket N .: 2079.1009-001 Date: 1/9/01
This acknowledges receipt CONTINUATION DIVISION 53(b) as follows:
 Application Transmittal Express Mail Label No. EL552288263US
 Fee Transmittal w/copy Statement of S/E Status
 Specification - Total pages 58
 Drawings Formal Informal - Total sheets _____
 Executed Declaration/POA - Total pages _____
 Copy of executed Declaration/POA from prior Application No. 09/097,184
 Assignment w/Recordation Sheet w/postcard
 Sequence Listing in Paper, Statement 1.821 (g)
 Other IDS and 1449 (3 pgs); Remarks Letter; Request Under 37 CFR 1.821(e)
 Check (\$1110.) Authorization to Charge all Fees

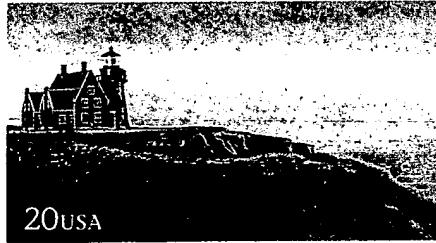
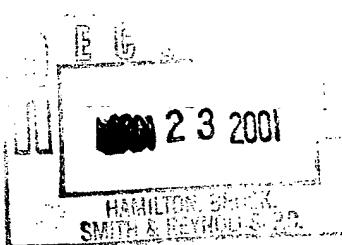
Applicant(s):

Continuation Division of Application No. 09/097,184 JC554 U.S. PTO
Title: Antineoplastic Peptides 09/757142
Date received by the PTO: 01/09/01

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FORM PTO-1449

(REV. 7-88)

ATTY. DOCKET NO.
2079.1009-001Continuation of SERIAL NO.
09/097,184INFORMATION DISCLOSURE CITATION
IN AN APPLICATION
January 8, 2001
(Use several sheets if necessary)APPLICANT
Wilhelm Amberg, et al.

FILING DATE

GROUP
1646

COPY

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U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE IF APPROPRIATE
AA	4,816,444	3/28/89	Pettit, et al.	514	17	7/10/87
AB	5,530,097	6/25/96	Pettit, et al.	530	330	8/1/94
AC	5,504,191	4/2/96	Pettit, et al.	530	330	8/1/94
AD	5,502,032	3/26/96	Haupt, et al.	514	17	1/5/94
AE	5,554,725	09/10/96	Pettit, G.R.	530	330	09/14/94
AF						
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AI						
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FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION YES NO
AL	96/40751	19-DEC-96	WO			
AM	96/40752	19-DEC-96	WO			
AN	92/02541	20-FEB-92	WO			
AO	97/17364	15-MAY-97	WO			
AP	0 398 558	22-NOV-90	EPO			
AQ	0 598 129	25-MAY-94	EPO			

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

AR	Pettit, G.R., et al., "The Isolation and Structure of a Remarkable Marine Animal Antineoplastic Constituent: Dolastatin 10," <i>J. Am. Chem. Soc.</i> 109:6883-6885 (1987).
AS	Bai, R., et al., "Structure-Activity Studies with Chiral Isomers and with Segments of the Antimitotic Marine Peptide Dolastatin 10," <i>Biochemical Pharmacology</i> 40(8):1859-1864 (1990).
AT	Pettit, G.R., et al. "Antineoplastic Agents. 220. Synthesis of Natural (-)-Dolastatin 15," <i>J. Am. Chem. Soc.</i> 113:6692-6693 (1991).

EXAMINER

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	AA2						
	AB2						
	AC2						
	AD2						
	AE2						
	AF2						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB- CLASS	TRANSLATION YES NO
	AL2	93/23424	25-NOV-93	WO			
	AM2						
	AN2						
	AO2						
	AP2						RECEIVED DEC 08 2003
	AQ2						

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

AU	Bai, R., et al., "Dolastatin 15, a potent antimitotic depsipeptide derived from <i>Dolabella auricularia</i> . Interaction with tubulin and effects on cellular microtubules," <i>1-Pharmacology Abstract</i> 117: 103735g pg. 41 (1992).
AV	Pettit, G.R., et al., "Isolation and Structure of the Cytostatic Depsipeptide Dolastatin 13 from the Sea Hare <i>Dolabella auricularia</i> ," <i>J. Am. Chem. Soc.</i> 111(13):5015-5017 (1989).
AW	Pettit, G.R., et al., "Antineoplastic Agents 337. Synthesis of Dolastatin-10 Structural Modifications," <i>Anti-Cancer Drug Design</i> 10:529-544 (1995).
AX	Miyazaki, K., et al., "Synthesis and Antitumor Activity of Novel Dolastatin-10 Analogs," <i>Chem. Pharm. Bull.</i> 43(10):1706-1718 (1995).
AY	Pettit, G.R., et al., "Isolation and Structure of the Cytostatic Linear Depsipeptide Dolastatin 15," <i>J. Org. Chem.</i> 54:6005-6006 (1989).

EXAMINER

DATE CONSIDERED

FORM PTO-1449
(REV. 7-80)ATTY. DOCKET NO.
2079.1009-001Continuation of SERIAL NO.
09/097,184INFORMATION DISCLOSURE CITATION
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U. S. PATENT DOCUMENTS

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	AG2					
	AH2					
	AI2					
	AJ2					
	AK2					
	AA3					

FOREIGN PATENT DOCUMENTS

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	AL3					
	AM3					
	AN3					
	AO3					
	AP3					
	AQ3					

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

AZ	Pettit, G.R., et al., "The Dolastatins 20. A convenient synthetic route to Dolastatin 15." <i>Tetrahedron</i> 50(42):12097-12108 (1994).
AR2	Pettit, G.R., et al., "Isolation of Dolastatin 10-15 from the Marine Mollusc <i>Dolabella Auricularia</i> , <i>Tetrahedron</i> 49(42):9151-9170 (1993).
AS2	
AT2	

EXAMINER

DATE CONSIDERED